



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
c/o Atty. [REDACTED]
[REDACTED]
[REDACTED]

DECISION

SSP/169925

PRELIMINARY RECITALS

Pursuant to a petition filed November 4, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability (DHCAA) in regard to State Supplemental SSI benefits, a hearing was held on January 12, 2016, by telephone.

The issue for determination is whether the Department correctly sought to discontinue the petitioner's State Supplemental SSI payments effective October 31, 2015.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o Atty. [REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

Attorney [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By written submission of [REDACTED]
State SSI Analyst
Division of Health Care Access and Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.

2. Prior to November 1, 2015, the petitioner received State Supplemental SSI payments. The Department notified the petitioner on October 19, 2015, that his State Supplemental SSI benefits would be discontinued effective October 31, 2015. The petitioner appealed.
3. Prior to November 1, 2015, the federal Social Security Administration (SSA) notified the petitioner that his federal SSI payments would be discontinued effective October 31, 2015. The SSA's basis for discontinuance was cessation of disability.

DISCUSSION

Effective January 1, 1996, the State of Wisconsin began sending out its State Supplemental SSI payments separately from federal SSI payments (they had previously been sent out as one check by the Social Security Administration). The state statute that lists the eligibility criteria for State Supplemental SSI payments requires that the petitioner be receiving federal SSI benefits, and reads as follows:

49.77 State supplemental payments.

...

(2) ELIGIBILITY. (a) *The following persons who meet the resource limitations and the nonfinancial eligibility requirements of the federal supplemental security income program under 42 USC 1381 to 1383d are entitled to receive supplemental payments under this section:*

...

2. *Any needy person or couple residing in this state and receiving benefits under federal Title XVI.*

3. Any needy person or couple residing in this state whose income, after deducting income excludable under federal Title XVI, is less than the combined benefit level available under federal Title XVI and this section, if at least one of the following requirements are met:

a. The person or couple was eligible for a state supplement under this section based on the last federal eligibility determination prior to January 1, 1996, but was not eligible to receive a payment under federal Title XVI on that date.

4. Any essential person.

(emphasis added)

Wis. Stat. § 49.77(2). The State sought discontinuance of the State Supplemental benefit because it believed that petitioner did not meet the nonfinancial eligibility requirements of the federal SSI (*i.e.*, Title XVI) program as of November 1, 2015, based on information provided by the SSA.

If the petitioner is nonfinancially eligible for federal SSI, he is nonfinancially eligible for State Supplemental SSI. Because he did not establish at hearing that he is currently eligible for federal SSI, it follows that he is not currently eligible for State Supplemental SSI. The petitioner acknowledged that he is not currently receiving SSI, and offered that he believes he continues to be disabled. Therefore, he has appropriately filed an appeal of the federal SSI discontinuance with the SSA.

The petitioner was unsure as to whether he filed the federal appeal in time to receive federal benefits during the pendency of that appeal. He did not offer an SSA Letter, confirming that he is on federal SSI pending appeal. This ALJ asked the state SSI analyst to again view the Department's Social Security Administration cross-matched database after hearing; she could find no record that the petitioner is currently receiving federal SSI. Accordingly, I conclude that the state benefit discontinuance was correct.

CONCLUSIONS OF LAW

1. The Department correctly discontinued the petitioner's State Supplemental SSI payments effective October 31, 2015, because the petitioner was not eligible for federal SSI at that time.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 29th day of January, 2016

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 29, 2016.

Division of Health Care Access and Accountability

State SSI

Attorney [REDACTED]